

1 XAVIER BECERRA  
Attorney General of California  
2 E. A. JONES III  
Supervising Deputy Attorney General  
3 CINDY M. LOPEZ  
Deputy Attorney General  
4 State Bar No. 119988  
California Department of Justice  
5 300 So. Spring Street, Suite 1702  
Los Angeles, CA 90013  
6 Telephone: (213) 269-6494  
Facsimile: (213) 897-9395  
7 *Attorneys for Complainant*

FILED  
STATE OF CALIFORNIA  
MEDICAL BOARD OF CALIFORNIA  
SACRAMENTO Jan 9 20 19  
BY [Signature] ANALYST

8  
9 **BEFORE THE**  
**MEDICAL BOARD OF CALIFORNIA**  
10 **DEPARTMENT OF CONSUMER AFFAIRS**  
11 **STATE OF CALIFORNIA**

12  
13 In the Matter of the Accusation Against:

Case No. 800-2017-030675

14 **Vorakiat Charuvastra, M.D.**  
15 **P.O. Box 33317**  
**Los Angeles, CA 90033**

**A C C U S A T I O N**

16 **Physician's and Surgeon's Certificate**  
17 **No. A 29784,**

18 Respondent.

19  
20 Complainant alleges:

21 **PARTIES**

22 1. Kimberly Kirchmeyer (Complainant) brings this Accusation solely in her official  
23 capacity as the Executive Director of the Medical Board of California, Department of Consumer  
24 Affairs (Board).

25 2. On or about December 8, 1975, the Medical Board issued Physician's and Surgeon's  
26 Certificate Number A 29784 to Vorakiat Charuvastra, M.D. (Respondent). The Physician's and  
27 Surgeon's Certificate was in full force and effect at all times relevant to the charges brought  
28 herein and will expire on January 31, 2021, unless renewed.

## JURISDICTION

3. This Accusation is brought before the Board, under the authority of the following laws. All section references are to the Business and Professions Code unless otherwise indicated.

4. Section 2227 of the Code provides that a licensee who is found guilty under the Medical Practice Act may have his or her license revoked, suspended for a period not to exceed one year, placed on probation and required to pay the costs of probation monitoring, or such other action taken in relation to discipline as the Board deems proper.

5. Section 2234 of the Code, states:

“The board shall take action against any licensee who is charged with unprofessional conduct. In addition to other provisions of this article, unprofessional conduct includes, but is not limited to, the following:

“(a) Violating or attempting to violate, directly or indirectly, assisting in or abetting the violation of, or conspiring to violate any provision of this chapter.

“(b) Gross negligence.

“(c) Repeated negligent acts. To be repeated, there must be two or more negligent acts or omissions. An initial negligent act or omission followed by a separate and distinct departure from the applicable standard of care shall constitute repeated negligent acts.

“(1) An initial negligent diagnosis followed by an act or omission medically appropriate for that negligent diagnosis of the patient shall constitute a single negligent act.

“(2) When the standard of care requires a change in the diagnosis, act, or omission that constitutes the negligent act described in paragraph (1), including, but not limited to, a reevaluation of the diagnosis or a change in treatment, and the licensee’s conduct departs from the applicable standard of care, each departure constitutes a separate and distinct breach of the standard of care.

“(d) Incompetence.

“(e) The commission of any act involving dishonesty or corruption which is substantially related to the qualifications, functions, or duties of a physician and surgeon.

“(f) Any action or conduct which would have warranted the denial of a certificate.

1 “(g) The practice of medicine from this state into another state or country without meeting  
2 the legal requirements of that state or country for the practice of medicine. Section 2314 shall not  
3 apply to this subdivision. This subdivision shall become operative upon the implementation of the  
4 proposed registration program described in Section 2052.5.

5 “(h) The repeated failure by a certificate holder, in the absence of good cause, to attend and  
6 participate in an interview by the board. This subdivision shall only apply to a certificate holder  
7 who is the subject of an investigation by the board.”

### 8 9 **CAUSE FOR DISCIPLINE**

#### 10 **(Repeated Negligent Acts)**

11 6. Respondent is subject to disciplinary action under section 2234, subdivision (c), in  
12 that he was repeatedly negligent in his care and treatment of patient B.H. The circumstances are  
13 as follows:

14 A. Patient B.H. was identified as a patient whose cause of death was related to  
15 prescription drugs issued by Respondent. He apparently died of an accidental  
16 overdose of medications.

17 B. Patient B.H. was referred to Respondent through worker's compensation. They met  
18 in 2007 for a surgical clearance B.H. dealt with depression and abused alcohol.  
19 B.H. treated with Respondent from March 2007 through June 2013 for psychiatric  
20 treatment.

21 C. During this time, Respondent prescribed combinations of Wellbutrin/bupropion (an  
22 anti-depressant); Celexa/Citalopram (an anti depressant that treats major depressive  
23 disorder); Buspar/Buspirone (to treat anxiety); Risperdal/Risperidone (antipsychotic);  
24 Seroquel/Quetiapine (another antipsychotic); Valium/Diazepam (for anxiety and  
25 sleep); Ambien (for sleep); Theraminé (helps with pain); and, Klonopin (treats  
26 seizures and panic disorder).

27 D. This patient was also prescribed morphine, Soma and hydrocodone by other  
28 physicians, at the same time that Respondent was prescribing his variety of

1 medications. Patient B.H. never seemed to have a prolonged improvement in his  
2 symptoms, and eventually developed an opioid dependence.

3 E. According to the patient's wife, when B.H. would return home after an appointment  
4 with the Respondent, he had a brown paper bag with pills in them, but his wife was  
5 not allowed to see them.

6 F. Respondent admitted he knew the patient was simultaneously being prescribed  
7 significant doses of morphine, Norco, Soma.

8 G. During these visits, there was no assessment of cognition, substance use and abuse,  
9 nor an estimation of the patient's suicide risk. There was no documentation of a  
10 discussion of respiratory risks associated with this medication combination.

11 Allegations of Negligence:

12 H. Respondent's prescriptions of Ambien (up to twice the FDA maximum), while also  
13 prescribing other respiratory depressants in high doses, without documenting an  
14 informed consent of the risks, is a simple departure each time he did so. There were  
15 15 departures from January 2012 through May 2013, specifically: January 11, 2012;  
16 February 14, 2012; March 13, 2012; May 8, 2012; May 29, 2012; June 16, 2012; July  
17 24, 2012; September 18, 2012; October 16, 2012; November 13, 2012; January 2,  
18 2013; February 19, 2013; March 17, 2013; April 9, 2013; and, May 9, 2013.

19 I. Between the dates of January 11, 2012, through May 9, 2013, Respondent was  
20 negligent when he failed to do an assessment of the patient's substance abuse and use;  
21 failed to estimate his suicide risk; and failed to document a specific discussion of the  
22 respiratory risks given the combination of Ambien and the many other medications he  
23 was prescribed.

24  
25 PRAYER

26 WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged,  
27 and that following the hearing, the Medical Board of California issue a decision:  
28

- 1           1.    Revoking or suspending Physician's and Surgeon's Certificate Number A 29784,
- 2   issued to Vorakiat Charuvastra, M.D.;
- 3           2.    Revoking, suspending or denying approval of Vorakiat Charuvastra, M.D.'s authority
- 4   to supervise physician assistants and advanced practice nurses;
- 5           3.    Ordering Vorakiat Charuvastra, M.D., if placed on probation, to pay the Board the
- 6   costs of probation monitoring; and
- 7           4.    Taking such other and further action as deemed necessary and proper.

8  
9   DATED:       January 9, 2019

  
KIMBERLY KIRCHMEYER  
Executive Director  
Medical Board of California  
Department of Consumer Affairs  
State of California  
*Complainant*

10  
11  
12  
13  
14   LA2019500032